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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/601,773

06/23/2003

Edward A. Youngs

020366-067210US

9495

84190

7590

05/09/2011

Qwest Communications International Inc.
1801 California St., #900
Denver, CO 80202

EXAMINER

MANOHARAN, MUTHUSWAMY GANAPATHY

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

05/09/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/601,773	YOUNGS ET AL.	
	Examiner	Art Unit	
	MUTHUSWAMY MANOHARAN	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-34, 40 and 44-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-34, 40 and 44-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/24/2011</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/20/2010 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30-34, 39-40 and 44-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding **claims 30 and 40** recitation “first request to **a selected media program**a second request to **a selected media program****the selected media program**” render the claims indefinite.

The dependent claims are also rejected as they dependent upon the rejected base claim.

Clarification/Correction is requested.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-34, 40 and 44-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick et al. (hereinafter McCormick) (US 6,169,894) in view of Peters et al. (hereinafter Peters) (US 6246430).

Regarding **claim 30**, McCormick discloses a method for providing transmission of a selected media program to a plurality of wireless handsets deployed in a wireless network having at least one cell site coverage area associated therewith (Abstract and Figure 1), the method comprising:

receiving a first request to receive a selected media program from a first wireless handset in a first cell site coverage area (Figure 3, steps 300 and column 6, lines 17 to 27);

establishing a wireless channel upon which to broadcast the selected media program in the cell site coverage area (Figure 3, step 310 and col. 6, lines 30-50);

broadcasting the selected media program to the first wireless handset over the wireless channel as one-way phone call having no return audio path (muting the reverse voice channels during such broadcast, abstract; local cell site mutes the voice channel of the particular mobile unit such that the mobile unit user does not interfere with the broadcast channel, col. 6, lines 60-65);

establishing a return data-command path over the wireless channel adapted to receive a media selection or a phone call from the first wireless handset(transmits the feature code ... is a request for information over a broadcast channel, col. 6, line 29; reverse message channel, col. 6, lines 65-66; col. 6, lines 16-67);

receiving a second request to receive a selected media program from a second wireless handset(col. 6, lines 59-66, as the reference discloses that multiple users may use the broadcast channel, therefore receiving a request is repeated multiple times);

determining whether the second wireless handset is located within the first cell site coverage area("the switch then determines that the feature code is a request for information over a broadcast channel and directs a local site", Col. 6, lines 31-33; therefore, teaches associating channel with site coverage area and also checking whether the handset is in a particular coverage area);

transmitting the selected media program to the second wireless handset, based on a determination of whether the second wireless handset is located within the first cell site coverage area(col. 6, lines 40-50; McCormick teaches one or more transceivers within the particular cell site will be directed to tune to a particular frequency at a particular time are requested to tune to a particular frequency(requires a determination that the second wireless handset is within the first cell site)).

McCormick did not disclose specifically the request corresponding to a selection from a list of available media programs presented to a subscriber on a display of the wireless handset.

However, Peters teaches in an analogous art a method wherein the request corresponding to a selection from a list of available media programs presented to a subscriber on a display of the wireless handset(col. 2, lines 62-67; col. 3, lines 1-10 and lines 46-67; server transmits a list of the different video signal in the form of a menu to the customer equipment...the desired selection number is entered by the customer via the numeric keypad).

Therefore, it would be obvious to one of ordinary skill in the art at the time of invention to use a method wherein the request corresponding to a selection from a list of available media programs presented to a subscriber on a display of the wireless handset in order to make the selection in a user friendly manner.

The combination of McCormick and Peters did not teach specifically receiving a second request

Claim 40 is rejected for the same reason as set forth in claim 30.

McCormick discloses all the steps/elements of dependent **claims 31 and 47**, including, wherein the selected media program comprises a selection from a group consisting of: a cable program, a television program, a satellite program, and a radio program (column 3, lines 39 to 44).

McCormick discloses all the steps/elements of dependent **claims 32 and 45**, including wherein the selected media program comprises a pre-recorded media program (Col. 3, lines 35-62).

McCormick discloses all the steps/elements of dependent **claims 33 and 46**, including wherein the selected media program comprises a real-time transmission (Col. 3, lines 35-62).

McCormick discloses all the steps/elements of dependent **claims 34 and 48**, including wherein the selected media program comprises a selection from a group consisting of: audio program (Id.), video program, and data transmission (Id.).

McCormick discloses all the elements of dependent **claim 44**, wherein the source provider is the wireless network (local cell and Figure 1).

McCormick discloses all the elements of dependent **claim 49**, wherein the wireless network communication scheme comprises a selection from a group consisting of: TDMA, FDMA, and CDMA (column 6, line 35).

McCormick discloses all the elements of dependent **claim 50**, wherein:
determining whether the second handset is located within the first cell site coverage area comprises determining that the second wireless handset is not located within the first cell site coverage area; and transmitting the selected media program to the second wireless handset comprises transmitting the selected media program using an available wireless channel in a second cell site coverage area in which the second wireless handset is located (McCormick teaches different geographic regions will carry different information on each or many of its various broadcast channels (col. 7, lines 5-25) and also teaches plurality of users (col. 6, lines 59-63) and also teaches different information broadcasts as each mobile traverses different regions (therefore, determining the location of the handsets); col. 7, lines 5-25).

McCormick discloses all the elements of dependent **claim 51**, wherein:
determining whether the second handset is located within the first cell site coverage area comprises determining that the second wireless handset is not located within the first cell site coverage area; and transmitting the selected media program to the second wireless handset comprises transmitting the selected media program using second wireless channel upon which to transmit the selected media program(McCormick teaches multiple users and also teaches different information broadcasts as each mobile traverses different regions(therefore, determining the location of the handsets); col. 7, lines 5-25; In Figure 2, cell site 130c has transceivers 120c1 and 120c2 and each such transceiver may be broadcasting different or varied information within the particular sector of the geographic region(first cell site) , col. 5, lines 25-40).

Response to Arguments

Applicant's arguments with respect to newly amended claim limitations have been considered but are not persuasive.

Applicant argues that McCormick and Peters fails to disclose the newly amended claim limitation.

McCormick teaches receiving a second request to receive a selected media program from a second wireless handset(col. 6, lines 59-66, as the reference discloses that multiple users may use the broadcast channel, therefore receiving a request is repeated multiple times);

determining whether the second wireless handset is located within the first cell site coverage area("the switch then determines that the feature code is a request for information over a broadcast channel and directs a local site", Col. 6, lines 31-33; therefore, teaches associating channel with site coverage area and also checking whether the handset is in a particular coverage area);

transmitting the selected media program to the second wireless handset, based on a determination of whether the second wireless handset is located within the first cell site coverage area(col. 6, lines 40-50; McCormick teaches one or more transceivers within the particular cell site will be directed to tune to a particular frequency at a particular time (requires a determination that the second wireless handset is within the first cell site) are requested to tune to a particular frequency).

Applicant further argues that McCormick system would never receive requests from wireless handsets in different cell site for the same media program. Examiner respectfully disagrees. McCormick teaches(col. 5, lines 35-40) "**various geographic regions** (therefore include different cell site) may share the same broadcast channel with **the same information broadcast** by multiple transceivers". Therefore, McCormick's teachings include same media program in different cell sites also.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUTHUSWAMY MANOHARAN whose telephone number is (571)272-5515. The examiner can normally be reached on 6:30am-2:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Muthuswamy G Manoharan/

Examiner, Art Unit 2617

/George Eng/

Supervisory Patent Examiner, Art Unit 2617